

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0068-AIR-E TCEQ ID: RN100216340 CASE NO.: 35199**  
**RESPONDENT NAME: Ogre, Inc. dba Mur-Tex Company**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mur-Tex, 511 Southwest 48th Avenue, Amarillo, Randall County</p> <p><b>TYPE OF OPERATION:</b> Fiberglass manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 12, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (712) 422-8938; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Taylor D. Fyfe, President, Ogre, Inc., 7 Lakeway Centre Court, Suite 201, Lakeway, Texas 78734  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 16, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 14, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to submit a revision application to amend the Federal Operating Permit to codify 40 Code of Federal Regulations Part 63 Subpart WWWW into the permit no later than April 21, 2006. Specifically, the Respondent did not submit the revision application until September 10, 2007 [30 TEX. ADMIN. CODE § 122.143(4); Federal Operating Permit No. O-02664, Special Terms and Conditions No. 1; and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,425</p> <p><b>Total Deferred:</b> \$485  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,940</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the required revision application to amend Federal Operating Permit No. O-02664 on September 10, 2007.</p>

Additional ID No(s): RB0091A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

<b>DATES</b>	<b>Assigned</b>	17-Dec-2007	<b>Screening</b>	9-Jan-2008	<b>EPA Due</b>	
	<b>PCW</b>	8-Jan-2008				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Ogre, Inc. dba Mur-Tex Company		
<b>Reg. Ent. Ref. No.</b>	RN100216340		
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	35199	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2008-0068-AIR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Lindsey Jones	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **22% Enhancement** **Subtotals 2, 3, & 7** **\$550**

**Notes** The penalty was enhanced due to one previous non-similar NOV and one previous 1660-style agreed order.

**Culpability** **No** **0% Enhancement** **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **25% Reduction** **Subtotal 5** **\$625**

Before NOV NOV to EDPRP/Settlement Offer

<b>Extraordinary</b>	
<b>Ordinary</b>	X
<b>N/A</b>	(mark with x)

**Notes** The Respondent returned to compliance on September 10, 2007, which was before the NOE dated December 14, 2007.

**0% Enhancement\*** **Subtotal 6** **\$0**  
 \*Capped at the Total EB \$ Amount

<b>Total EB Amounts</b>	\$69
<b>Approx. Cost of Compliance</b>	\$1,000

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,425**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$2,425**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,425**

**DEFERRAL** **20% Reduction** **Adjustment** **-\$485**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,940**

Screening Date 9-Jan-2008

Docket No. 2008-0068-AIR-E

PCW

Respondent Ogre, Inc. dba Mur-Tex Company

Policy Revision 2 (September 2002)

Case ID No. 35199

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100216340

Media [Statute] Air

Enf. Coordinator Lindsey Jones

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty was enhanced due to one previous non-similar NOV and one previous 1660-style agreed order.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 22%

<b>Screening Date</b> 9-Jan-2008 <b>Respondent</b> Ogre, Inc. dba Mur-Tex Company <b>Case ID No.</b> 35199 <b>Reg. Ent. Reference No.</b> RN100216340 <b>Media [Statute]</b> Air <b>Enf. Coordinator</b> Lindsey Jones <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2008-0068-AIR-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision November 6, 2007</i>																			
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 122.143(4); Federal Operating Permit No. O-02664, Special Terms and Conditions No. 1; and Tex. Health & Safety Code § 382.085(b)																				
<b>Violation Description</b> Failed to submit a revision application to amend the Federal Operating Permit to codify 40 Code of Federal Regulations Part 63 Subpart WWWW into the permit no later than April 21, 2006. Specifically, the Respondent did not submit the revision application until September 10, 2007.																				
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td style="text-align: right;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: right;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: right;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		<b>Harm</b>				<b>Release</b>	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<b>&gt;&gt; Programmatic Matrix</b>																				
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	Major	Moderate	Minor																	
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<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px; min-height: 40px;">           The Respondent failed to comply with 100% of the rule requirement.         </div>																			
<b>Adjustment</b> <input type="text" value="\$7,500"/>																				
<input type="text" value="\$2,500"/>																				
<b>Violation Events</b>																				
<table style="width: 100%;"> <tr> <td style="width: 40%;"> <b>Number of Violation Events</b> <input type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="507"/> </td> <td style="width: 40%;"> <b>Number of violation days</b> </td> </tr> </table>		<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="507"/>	<b>Number of violation days</b>																
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<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <i>mark only one with an x</i> </div> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="text-align: center;">X</td></tr> </table> </div>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	X	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>							
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	X																			
<div style="border: 1px solid black; padding: 5px; min-height: 30px; text-align: center;">           One single event is recommended.         </div>																				
<table style="width: 100%;"> <tr> <td style="width: 50%;"><b>Economic Benefit (EB) for this violation</b></td> <td style="width: 50%;"><b>Statutory Limit Test</b></td> </tr> </table>		<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>																	
<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>																			
<b>Estimated EB Amount</b> <input type="text" value="\$69"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,425"/>																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,425"/>																				

**Economic Benefit Worksheet****Respondent** Ogre, Inc. dba Mur-Tex Company**Case ID No.** 35199**Reg. Ent. Reference No.** RN100216340**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	21-Apr-2006	10-Sep-2007	1.4	\$69	n/a	\$69
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to timely submit the permit amendment application. Date required is the submission deadline for the application. Final date is the date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$1,000

**TOTAL**

\$69

# Compliance History

Customer/Respondent/Owner-Operator:	CN602803918	Ogre, Inc.	Classification: AVERAGE	Rating: 7.50
Regulated Entity:	RN100216340	MUR-TEX	Classification: AVERAGE	Site Rating: 7.50
ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS INDUSTRIAL AND HAZARDOUS WASTE GENERATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS STORMWATER		ACCOUNT NUMBER PERMIT EPA ID  SOLID WASTE REGISTRATION # (SWR) AFS NUM PERMIT ACCOUNT NUMBER REGISTRATION REGISTRATION PERMIT	RB0091A 2664 TXD007381551  68887  4838100015 45066 RB0091A 45066 82251 TXR05M927
Location:	511 SW 48TH AVE, AMARILLO, TX, 79110		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	January 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 09, 2003 to January 09, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lindsey Jones	Phone:	512-239-4930	

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/09/2005	ADMINORDER 2004-1596-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(B)	
30 TAC Chapter 122, SubChapter B 122.146(1)	
5C THC Chapter 382, SubChapter A 382.085(b)	
Description: Failed to submit the Title V Annual Compliance Certification for the annual period ending November 20, 2003, and the associated deviation report.	

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/10/2004	(276949)
2	08/13/2004	(281380)
3	07/27/2005	(401433)
4	07/05/2006	(485121)
5	11/07/2006	(516324)
6	12/14/2007	(611438)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 12/14/2007 (611650)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Failure to submit complete deviation reports for the periods of September 8, 2005 through September 7, 2006 and September 8, 2006 through September 7, 2007. This constitutes a violation of 30 TAC Chapter 122.145 (2) and SOP No. 02664.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OGRE, INC. DBA MUR-TEX  
COMPANY  
RN100216340**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0068-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ogre, Inc. dba Mur-Tex Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a fiberglass manufacturing plant at 511 Southwest 48th Avenue in Amarillo, Randall County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 19, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Four Hundred Twenty-Five Dollars (\$2,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Nine Hundred Forty Dollars (\$1,940) of



the administrative penalty and Four Hundred Eighty-Five Dollars (\$485) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted the required revision application to amend Federal Operating Permit No. O-02664 on September 10, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to submit a revision application to amend the Federal Operating Permit to codify 40 Code of Federal Regulations Part 63 Subpart WWW into the permit no later than April 21, 2006, in violation of 30 TEX. ADMIN. CODE § 122.143(4); Federal Operating Permit No. O-02664, Special Terms and Conditions No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 16, 2007. Specifically, the Respondent did not submit the revision application until September 10, 2007.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ogre, Inc. dba Mur-Tex Company, Docket No. 2008-0068-AIR-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

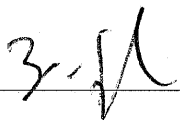
4/30/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

2/20/08  
Date

TAYLOR D. FYFE  
Name (Printed or typed)  
Authorized Representative of  
Ogre, Inc. dba Mur-Tex Company

PRESIDENT  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

